

1979 S.C. Op. Atty. Gen. 31 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-20, 1979 WL 29026

Office of the Attorney General

State of South Carolina

Opinion No. 79-20

February 2, 1979

***1 SUBJECT: Mobile Homes—Moving permit when mobile home repossessed.**

A moving permit is required when a mobile home dealer or others repossess a mobile home under a security agreement.

TO: Mr. Jimmie B. Davenport
Newberry County Assessor

QUESTION:

Is a moving permit required when a mobile home is repossessed by a dealer under a security agreement?

APPLICABLE LAW:

§§ 31–17–330, 31–17–360, 36–9–207, 36–9–504 and 36–9–505.

DISCUSSION:

No license is required for a mobile home held by a dealer for resale and consequently no moving permit is required for the mobile home when the same is the property of the mobile home dealer. In the case of repossession under a security agreement, possession may be taken by the dealer, however, his rights to dispose of the property are not at that moment fixed. The recovery of possession by the dealer from the defaulting purchaser does not operate as an immediate termination of the right of the defaulting purchaser. In example, § 36–9–504(3) requires reasonable notice of the sale of the property. Section 36–9–505(2) requires notice if the dealer is to retain possession in satisfaction of the debt.

The right of redemption is given by Section 36–9–506 as follows:

‘At any time before the secured party has disposed of collateral or entered into a contract for its disposition under § 36–9–504 or before the obligation has been discharged under § 36–9–505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.’

Under such the mobile home at the time of repossession is not held for resale by the dealer nor is the same the property of the dealer.

CONCLUSION:

A moving permit is required when a mobile home dealer or others repossess a mobile home under a security agreement.

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